



STATE OF LOUISIANA
DIVISION OF ADMINISTRATION
OFFICE OF STATE PROCUREMENT
1201 N. 3RD STREET, SUITE 2-160
P.O. BOX 94095
BATON ROUGE, LA 70804-9095

CONTRACT NUMBER: **4400014180**

T-NUMBER: 91638

ATTACHMENT A- **SPECIAL TERMS AND CONDITIONS**

CONTRACT TYPE: **SOLE SOURCE BRAND NAME MICROCOMPUTERS & PERIPHERALS**

SCOPE

STATEWIDE CONTRACT FOR American (ARC) Brand Name BRAND NAME MICROCOMPUTER AND PERIPHERALS.

All items to be furnished must be the manufacturer's current state-of-the-art and must be certified to be in current new production. All items delivered under the contract must be new. Refurbished items are not acceptable for new purchases.

All items furnished, including hardware components within any system configuration, must be the brand specified.

This is an open-ended requirements contract.

PRICES

Contractor is to provide minimum discount(s) offered for each category in the space provided on the last page of this document. These discounts shall be applied to the lowest prices found on the most current American (ARC) Brand Name_PRICE LIST for the items listed in Attachment B. Discounts quoted shall establish the minimum level of reduced pricing offered to the State of Louisiana throughout the contract period. All discounts must be firm for the contract period.

Contractor is to provide the retail price, minimum discount percent and the actual discounted price offered for each individual item listed on Attachment B. Greater discounts than the minimum discount quoted may be applied to individual items, but the minimum discount quoted will be considered firm during the contract period.

Any new items added during the contract shall be offered at a discount equal to or greater than the minimum discount(s) quoted herein.

Contractor is to provide the most recent manufacturer's established catalog price and GSA price list if available. In the event that these published lists do not exist, a signed and notarized type listing of retail prices covering all items should be submitted. For items that are legally relabeled as the brand name specified in the contract, the Contractor may be required to provide the original equipment manufacturer's published price list to the Office of State Procurement.

Net prices may not exceed the current nationally advertised and available General Services Administration (GSA) Governmental price list, if one exists. If not, the State does not intend to maintain any item in any group that is offered at a price equal to or above the Manufacturer's List Price.

CONFIGURATION DOLLAR LIMITS

The following configuration limits will apply to the contract.

- Servers and Storage (SANs, etc.) per unit/configuration costs should not exceed \$500,000 each
- Desktop per unit/configuration costs should not exceed \$100,000 each
- Printers, of all types, and Monitors per unit/configuration costs should not exceed \$50,000 each
- Peripherals per unit cost should not exceed \$50,000 each

For the purpose of the contract, "Configuration" is defined as "a total system configuration. This may include more than one model or part number (or SKU), or a combination of hardware, software, and configuring of the system to make the system work."

Total purchase order amount shall not exceed \$1,000,000. Procurements shall not be artificially divided to circumvent the \$1,000,000 threshold. (NOTE: The \$1,000,000 is a per purchase order limit and is not a limit on the annual amount that can be purchased from the contract.

NON-EXCLUSIVE CONTRACT

This contract is non-exclusive and shall not in any way preclude the State from entering into similar contracts and/or arrangements with other vendors or from acquiring similar, equal or like goods and/or services from other entities or sources.

PACKAGING AND LABELING

Contractor is encouraged to consider delivery methods that utilize recyclable or reusable packaging material and containers, or those with recycled content.

COOPERATIVE PURCHASE

It is the intent of the Office of State Procurement (OSP) to accommodate cooperative purchasing in the contract.

As described below, Political Subdivisions of the State, Quasi State Agencies, External Procurement Units, and Agencies of the United States Government are to be authorized (potential) users of the contract(s), subject to the pricing and terms set forth in the contract(s).

- Political Subdivisions of the State include, but are not limited to, parish governments, municipal governments, school districts, human service districts, local governments and public utilities.
- Quasi State Agencies include, but are not limited to, non-profit or for-profit organizations created by the State of Louisiana or any political subdivision or agency thereof, or any special district or authority, or unit of local government, to perform a public purpose.
- External Procurement Units include, but are not limited to, buying organizations not located in the State of Louisiana, which, if located in the State, would qualify as a public procurement unit.

The current list of approved cooperating purchasing entities (including political subdivisions, quasi state agencies and external procurement units) is maintained and regularly updated on the OSP website at: <http://www.doa.la.gov/pages/osp/aboutus/approvedquasiunits.aspx> and may be used as a reference.

Contractors may prospectively choose to partially or entirely 'opt-out' of accommodating cooperative purchasing for such contract(s) by sending formal written notification of same to the Office of State Procurement. This notification should clearly specify which individual type(s) of cooperative purchasing entities the Contractor is choosing to not allow to participate in contract cooperative purchasing. Any purchase orders received by the

contract-holder from cooperative purchasing entities prior to the contract-holder's opt-out notification to OSP must be honored in accordance with the contract.

F.O.B.

Destination: All prices and terms shall be net.

DELIVERY

Deliver to any agency of the State government eligible by State statute and/or authorized to purchase from the contract. Delivery is to be made upon the issuance of a purchase order.

Contractors will have access to an adequate supply of all items in order to meet deliveries of not more than thirty (30) business days.

RISK OF LOSS/PASSAGE OF TITLE

Title to the equipment purchased under the Contract shall pass from Contractor to State on the date of installation for Contractor-installed equipment or on the date of delivery for State-installed equipment. Prior to the passage of title all risk of loss or damage shall be on the Contractor.

TERMS AND CONDITIONS

The contract contains all terms and conditions with respect to the commodities herein.

The purchase order is the only binding document to be issued against the contract. Signing of Contractor's pre-printed forms is not allowed.

ORDERS

All State Agencies are directed to issue contract purchase orders for a supply of the items required, as and when needed. Political Subdivisions of the State and Quasi Agencies who have been authorized to purchase from contracts made by the Office of State Procurement, are directed to issue their regular purchase orders directly to the supplier, making reference to the contract and line item numbers.

INVOICE

Invoices will be submitted by the Contractor to the using agency as indicated on the purchase order and the invoice should refer to the delivery ticket number, delivery date, purchase order number, quantity, unit price, net discount and delivery point. A separate invoice for each order delivered and accepted should be submitted by the Contractor in duplicate directly to the accounting department of the using Agency. Invoices shall show the amount of any cash discount and shall be submitted on the Contractor's own invoice form.

Using Agencies are directed to pay the Contractor upon presentation of a properly executed invoice after goods have been received, inspected and accepted. Invoices will be paid within thirty (30) days of receipt of a properly executed invoice, or receipt of goods, whichever is later. Payment will be made on the basis of unit price net discount as listed in the contract or the invoiced price, whichever is lower. Such price and payment will constitute full compensation for furnishing and delivering the requested contract commodities. In no case will the Using Agency refuse to make partial payments to the Contractor although all items have not been delivered. This payment in no way relieves the Contractor of his responsibility to effect shipment of the balance of the order.

PAYMENTS WILL BE MADE TO THE VENDOR AND TO THE ADDRESS AS SHOWN ON THE PURCHASE ORDER. ADVANCED PAYMENTS WILL NOT BE ALLOWED IN THE CONTRACT.

LATE PAYMENTS

Interest due by a State Agency for late payments shall be in accordance with La. R.S. 39:1695 at the rates established in La. R.S. 13:4202.

RENEWAL

This is the final renewal of this contract. There are no renewal options remaining.

USAGE/REPORTING REQUIREMENTS

Brand Name Contracts for Microcomputer and Peripherals are expected to have \$50,000.00 usage annually. This usage amount may be waived in whole or in part due to extenuating circumstances, in the State's best interest. The Office of State Procurement will consider contract purchases from both State Agencies and Political Subdivisions.

The Contractor shall submit detailed contract usage reports **quarterly** to the State Procurement Analyst (SPA) for the contract in accordance with the below schedule. Initiation and submission of the quarterly reports to the SPA is the responsibility of the Contractor without prompting or notification by the SPA. If these reports are not submitted in a timely manner, the Office of State Procurement (OSP) shall have the right to terminate the contract.

The specific usage report content, scope, and format requirements is available on the Office of State Procurement website under Purchasing/Vendor Center/Vendor Forms:

<http://www.doa.la.gov/pages/osp/vendorcenter/forms/index.aspx>.

In addition, the person's name who compiled the report and their contact information shall be provided. The Office of State Procurement reserves the right to request copies of any purchase orders issued against the contract.

The usage reports shall be submitted utilizing this format or an equivalent format that has been pre-approved by the Office of State Procurement. Schedule for submittal of usage reports:

<u>Quarter</u>	<u>Reporting Period</u>	<u>Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

The Contract holder must also comply with all the requirements stipulated in the "Procedures for the Establishment and Continuance of a Brand Name Microcomputer Contract" (Most current issue at time of approval of this agreement) where applicable. These procedures may be obtained at our website, <http://www.doa.la.gov/Pages/osp/Index.aspx>.

ADMINISTRATIVE FEE OR REBATE

Contractor shall pay a 1% administrative fee or rebate to the State of Louisiana, Office of State Procurement (OSP). The administrative fee or rebate shall be submitted quarterly and shall be based on the total net (gross sales minus returns, credits and deductions) sales made to entities located in the State of Louisiana under the contract. Initiation and submission of the administrative fee or rebate to OSP is the responsibility of the Contractor without prompting or notification by the State Procurement Analyst (SPA). If these administrative fees or rebates are not submitted in a timely manner, OSP shall have the right to terminate the contract.

The check is to be made payable: Louisiana DOA – Office of State Procurement. The check is to be mailed to the Office of State Procurement, Attn: OSP Receivables Specialist, either through the U.S. Postal Service to OSP's box at: P. O. Box 94095, Baton Rouge, LA 70804-9095; or through a courier service to OSP's physical location at: 1201 North 3rd Street, Suite 2-160, Baton Rouge, LA 70802. Payment shall be made in accordance with the following schedule:

<u>Quarter</u>	<u>Payment Period</u>	<u>Payment Due Date</u>
First Quarter	July 1 through September 30	October 31
Second Quarter	October 1 through December 31	January 31
Third Quarter	January 1 through March 31	April 30
Fourth Quarter	April 1 through June 30	July 31

NOTE: CONTRACTOR SHALL INDICATE STATE CONTRACT NUMBER 4400014180 ON THE REMITTANCE. WHEN SUBMITTING ONE (1) REMITTANCE FOR MORE THAN ONE (1) CONTRACT, CONTRACTOR SHALL INDICATE ALL STATE CONTRACT NUMBERS AND THE AMOUNT FOR EACH.

CATALOG CONTRACTS

To participate in catalog contracts the Contractor must maintain a web presence of their catalog through a universal locator (URL) linked to the Office of State Procurement Web page, satisfy various reporting requirements, and satisfy any other requirements of the State's program, including third party audit.

Information and guidelines for these catalog contracts can be obtained from our website, <http://www.doa.la.gov/Pages/osp/Index.aspx>.

The Contractor will be given an option to participate in the catalog contract program with the State or continue with the manual process for updating contracts once established.

Definition: La. R.S. 1556(22) Defines "Established Catalog Price" as the Price included in a catalog, price list, schedule, or other form that:

- a. Is regularly maintained by a manufacturer or contractor.
- b. Is either published or otherwise available for inspection by customers, and
- c. States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the supplies or services involved.

INSTALLATION

On-site installation should be available from the Contractor should an Agency desire it, at the hourly fee quoted below.

Installation is limited to the initial set-up and initial diagnostics of equipment and peripherals purchased from the contract. Installation is to be used only at the time of the purchase of the component(s) from the state contract. Installation is not to be used for configuration or reconfiguration of network equipment, installation or rearrangement of in-building or outside wiring/cabling nor any other fashion.

On-Site Installation \$ 99.00 per hour

The per hour charge will be the total charge allowed. Contractor may not charge a separate, additional amount for travel nor include it in calculating total installation time.

Contractor agrees to provide customer with at least one copy of all instructive material necessary for the effective operation of the purchased equipment, at no additional cost to all subsequent updates and corrections.

SERVICE/HOT LINE

Contractor shall be available for consultation service through use of a "Hot Line" telephone number. List the telephone number for users to call when technical assistance is needed:

318- 201-9666
(Area Code)

It is mandatory for the Contractor to render prompt service to Agencies throughout the State. Services of the Contractor shall include calling on Agencies, examining their needs and advising them as to the proper types and selection of equipment best suited to their particular application and/or furnishing technical information at the user site when needed. Accordingly, the Contractor must have at least one (1) representative located in the State of Louisiana to fulfill these needs, excluding the support from the manufacturer. If not provided below, the name of the representative must be submitted upon request. In the event one (1) representative is found insufficient to meet the needs of the State of Louisiana, the Contractor will be required to assign additional personnel or face cancellation of the contract.

REPRESENTATIVE AND LOCATION:

LISA POWELL, HINESTON, LA 71438

WARRANTY

The following warranty provisions shall apply to the contract. If the Contractor's standard warranty is other than described below, then the cost to provide warranties as specified below shall be included in the prices offered. There will be no separate charges for providing or extending warranties to meet the required provisions described below.

Contractor shall have available a three (3) year warranty for all components, with the first year of service to be provided at the Agency site, for the following systems: **Desktops, Workstations and Servers.**

The Contractor shall disclose if said warranty is included in the cost of the system as standard warranty at no additional charge. If standard warranty is other than that described above, the Contractor shall disclose complete details of standard warranty and the specific cost to upgrade to the warranty coverage described above. The Contractor should also have available warranty upgrades to three (3) years on-site services should it be desired.

Contractor shall provide the standard warranty offered by the Manufacturer on peripherals and options purchased separate from a system, portables, handheld products, and video displays except, that the warranty at a minimum shall be for a term of at least one (1) year commencing on the date of satisfactory installation for Contractor-installed equipment, or on the date of delivery for State-installed equipment, and that the warranty include all repairs and replacement at no cost to the State. In addition, if a unit fails within seven (7) days of satisfactory installation (if vendor-installed) or within seven (7) days of delivery (if State-installed), the entire unit will be replaced by the Contractor unless the standard manufacturer's warranty provides for repair of the unit, in which case, the Contractor may provide on-site repair service at no additional cost, to the extent that the standard manufacturer's warranty differs from the foregoing minimum requirements for the State required warranty, the State's minimum requirements shall prevail. The state will accept any warranty that exceeds these minimum requirements.

The above stated warranties shall be voided and shall terminate if the equipment system components are modified or altered by anyone other than the authorized Contractor personnel.

Any damages to the original equipment caused by State added components shall void the warranty, and repair of said unit becomes the responsibility of the State. These additions and upgrades may include, but are not limited to random access memory (RAM), video memory (VRAM), cache memory, disk or tape drive, models, I/O

adapters, (SCSI, serial, parallel, etc.), and other common components specifically manufactured for personal computer systems.

Re-certification of warranty shall then be negotiated between the State and the Contractor. The warranty does not cover defects or damage not caused or occasioned by the Contractor.

State/Contractor may verify machine condition or warranty through removal of any or all of the components added following initial procurement of the system.

Examples of "unit" are a keyboard, a monitor, a printer, a system unit as delivered.

The Contractor must be able to offer on-site warranty service within a twenty-four (24) or forty-eight (48) hour response time, as an option, should an agency desire it.

TECHNICAL SUPPORT EXPERIENCE

In order for the State of Louisiana to ensure quality or service for any Brand Name Microcomputer and Peripheral, the Contractor must meet the following:

1. The Contractor of a brand name state contract may use a third party warranty service provider when demand for support or repair is greater than that which the Contractor's "in-house" support team can provide. At no time does this relieve the contract vendor of his responsibility to any and all requirements that the Office of State Procurement has in place for Brand Name Microcomputer and Peripheral Contracts. Although third party warranty service providers are acceptable, this is not the preferred method of warranty repair and support. However, if a third party warranty provider(s) is utilized, it is incumbent on the Contractor to provide evidence of the designated service provider's compliance to number two (2) below.
2. The Contractor or the designated third party service provider(s) shall utilize A+ certified service technicians as recognized by the Computing Technology Industry Association or equivalent certification, or manufacturer's trained service technicians to fulfill the warranty and service needs of contract equipment. It is preferred that the Contractor or the designated third party service provider's be recognized as an A+ Authorized Service Center by the Computing Technology Industry Association or have equivalent certification. Manufacturer's training must be for the brand name equipment as specified. The Contractor is required to furnish the Office of State Procurement proof of all training. All support personnel must have a minimum of one (1) year of hands-on technical experience on the same type of equipment.

CONTRACTOR'S RESPONSIBILITY

Price Reductions:

During the course of the contract, any price reduction in the Manufacturer's Published Prices must be immediately extended to the State by the Contractor. Failure to offer the benefit of these price reductions to the State within two (2) weeks after general announcement may result in the cancellation of the contract. These price reductions must be granted on any order not shipped. Contractor must maintain a list of equipment on order and be able to provide a list to the Office of State Procurement within forty-eight (48) hours of the request.

Regulatory Approvals:

- A. Computers and Peripherals delivered under the Brand Name State Contract shall be FCC Compliant as follows:

Each computer monitor, keyboard and other applicable peripheral shall have either a FCC ID or statement of FCC compliance affixed to the outside case. Computer systems that are custom configured will be assembled using components that have either a FCC ID or a supply and case, as a unit shall be UL Listed.

- B. Computer systems delivered under the Brand Name State Contract shall be Novell compliant as follows:

Each system board and CPU will be Novell Certified. As and where required by Novell Certified components will be used in build-out of the Basic System.

- C. Computer Systems delivered under the Brand Name State Contract shall be Microsoft Compliant as follows:

Each system board and CPU will be Microsoft Certified. As and where required by Microsoft, Microsoft Compliant components will be used in build-out of the Basic System.

Required Burn-in:

Prior to delivery, each computer system and all components integrated with such system shall be burned in (turned on and powered) for a period of no less than twelve (12) hours and shall be subjected to a program stress test for a minimum of three (3) hours during the twelve (12) hour burn-in.

Prior to approval of a newly established brand name contract, at renewal or rebid of an existing contract, or at any time deemed necessary, the State reserves the right to request the Manufacturer's testing/burn-in plan for review and approval.

Consistent Component Supply:

Contractor must agree and commit to component consistency within a product line. Specifically, but not limited to, the computer case, system board, power supply, video card, hard drive, network card, monitor and keyboard should be of consistent quality from order to order. Upgrades to each will be a normal part of the process.

Product/Model Consistency and Availability:

Computer Systems delivered under the Brand Name State Contract shall be available and shall maintain consistency within that model for a minimum of three (3) months from the date of addition or upgrade on state contract. Model upgrades will be a normal part of the process.

Substitutes:

Only brand names and numbers stated in the contract are approved for delivery under the contract and any substitution must receive prior written approval of the Office of State Procurement.

With the exception of selected items, the CPU and any external peripheral devices such as printers, scanners, and other items of significant cost must be legally labeled as the brand name specified in the contract. In certain cases, this would require that there be a legal agreement between the original equipment manufacturer and the private label distributor on file with the Office of State Procurement, allowing the private label distributor to label and market the product as the brand specified.*

- Example: On a contract for ABC Brand Name Microcomputer and Peripherals, a system could not include a monitor labeled "DEF" or a printer labeled "GHI". An agreement would have to exist which would allow ABC Company to market these products and label them as ABC Brand.

***In the case where items require being legally relabeled as the brand name specified in the contract, the discounted price offered for those items cannot exceed the original equipment manufacturer's published price.**

Contractor providing items that are legally relabeled as the brand specified in the contract, should identify those items with the original manufacturer's name on the price list that is submitted.

During the course of a contract where the items are legally relabeled as the brand name specified in the contract, the contractor shall not be allowed to substitute a different OEM product under an existing contract product number.

- Example: On a contract for ABC Brand Name Microcomputer and Peripherals, if an ABC #123 is presented to the Office of State Procurement as a legally relabeled product, for which the OEM product is XYZ #456, then the contractor shall not substitute a different OEM product for ABC #123.

It is the Contractor's responsibility to ensure that all items meet the above criteria. Items delivered to an agency not in accordance with these criteria will be subject to return at the Contractor's expense and possible other legal action.

CONTRACT REVISIONS

Request for all revisions to the contract must be submitted in writing by the representative authorized to sign this Agreement, unless otherwise stated herein:

I, Jimmy Morrison, duly authorized to execute the contract, hereby delegate the following person/persons to submit written requests for revisions to the contract:

- 1.) Alisha Hooker, Administrative Secretary
(Name) (Title)
- 2.) Lisa Powell, Sales Manager
(Name) (Title)

Briefly state any restrictions as to type of revisions delegates may request.

COMMENT: No Restrictions

Requests for revisions to the contract shall be addressed to the Office of State Procurement and shall refer to the contract item number (with brief explanation of request). Distributor vendor changes, price reductions and item deletions may be requested at any time during the contract period.

Contractor must immediately notify the Office of State Procurement when any dealer on the contract is terminated, relocated, or added. All orders placed with dealers prior to receipt of such notification to the Office of State Procurement must be honored.

Request for new item additions shall be made in accordance with the "Procedures for the Establishment and Continuance of a Brand Name Microcomputer Contract", most current edition at time of execution of this agreement. The procedures may be obtained from our website, <http://www.doa.la.gov/Pages/osp/Index.aspx>. Any new items added during the contract shall be offered at a discount equal to or greater than the minimum discount(s) awarded. **For any items added to a contract that require being legally relabeled as the brand name specified in the contract, Contractor may be required to submit the original manufacturer's published price for those items, in addition to providing the published price list or type notarized listing of prices for the brand specified in the contract. The contract price for these items cannot exceed the original equipment manufacturer's published price.**

Revisions will become effective upon approval by the Office of State Procurement.

CONTRACT UTILIZATION

Contractor acknowledges that he agrees to the following terms that will be part of the contract(s):

The contract has been designated as a Louisiana Pricing Schedule ("LaPS"). The state intends to use the following process before placing orders under the contract, and the contractor explicitly understands and agrees to the use of this process before accepting orders under the contract. Where multiple LaPS contracts exist for functionally equivalent products and/or services and the procurement is above \$25,000.00, all eligible users of these contracts will utilize the following procedures:

- 1) Prepare a Request for Responses (an informal process used to make a best value determination) that includes, if applicable:
 - A) Performance-based statement of work that includes such things as:
 - The work to be performed
 - Location of work
 - Period of Performance
 - Deliverable schedule
 - Applicable performance standards
 - Acceptance criteria
 - Any special requirements (e.g., security clearances, special knowledge, etc.)
 - The products required (using a generic description of products and functions whenever possible).
 - B) If necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks.
 - C) A best value determination is one that considers, in addition to underlying contract pricing, such factors as:
 - Probable life of the item selected
 - Environmental and energy efficiency considerations
 - Technical qualifications
 - Delivery terms
 - Warranty
 - Maintenance availability
 - Administrative costs
 - Compatibility of an item within the user's environment
 - User's familiarity with the item or service
 - D) A request for submittal of a firm-fixed total price for labor and/or products which are no higher than prices in the LaPS contract.
- 2) Submit the Request for Response to at least three (3) LaPS contract holders, whenever available, offering functionally equivalent products and/or services that will meet the agency's needs.
- 3) Evaluate responses and select the contractor to receive the order:
 - A) After responses have been evaluated, the order shall be placed with the contractor that represents the best value that meets the agency's needs. The ordering agency should give preference to small entrepreneurship or small and emerging businesses when two or more contractors can provide the services and/or products at the same firm-fixed price.
 - B) The ordering agency shall document in the procurement file the evaluation of the contractors' responses that formed the basis for selection. The documentation shall identify the contractor from which the services and/or products were purchased, the services and/or products purchased, and the cost of the resulting purchase order.
 - C) Purchases shall not be artificially divided to avoid the requirements of this section when recurring requirements for same products are known.

INDEMNIFICATION AND LIMITATION OF LIABILITY

Neither party shall be liable for any delay or failure in performance beyond its control resulting from acts of God or force majeure. The parties shall use reasonable efforts to eliminate or minimize the effect of such events upon performance of their respective duties under this contract.

Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by Contractor, its agents, employees, partners or subcontractors, in the performance of this contract without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the State.

Contractor shall indemnify, defend and hold the State harmless, **without limitation**, from and against any and all damages, expenses (including reasonable attorneys' fees), claims judgments, liabilities and costs which may be fully assessed against the State in any action for infringement of a United States Letter Patent with respect to the products, materials or services furnished by Contractor under the contract, or of any copyright trademark, trade secret or intellectual property right, provided that the State shall give the Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor. Where a dispute or claim arises relative to a real or anticipated infringement, the State may require Contractor at its sole expense, to submit such information and documentation, including formal patent attorney opinions, as the Commissioner of Administration shall require.

The Contractor shall not be obligated to indemnify that portion of a claim or dispute based upon: (i) State's unauthorized modification or alteration of the products or materials; (ii) State's use of the products or materials in combination with other products or materials not furnished by Contractor; (iii) State's use of the products or materials in other than the specified operating conditions and environment.

In addition to the foregoing, if the use of any item(s) or part(s) thereof shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion as the State's exclusive remedy to take action in the following order of precedence: (i) to procure for the State the right to continue using such item(s) or part(s) thereof, as applicable; (ii) to modify the component so that it becomes non-infringing equipment of at least equal quality and performance; or (iii) to replace said item(s) or part(s) thereof, as applicable, with non-infringing components of at least equal quality and performance, or (iv) if none of the foregoing is commercially reasonable, then provide monetary compensation to the State up to the dollar amount of the product or material.

For all other claims against the Contractor where liability is not otherwise set forth in the contract as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability **for direct damages, shall be the greater of \$100,000, the dollar amount of the products or materials, or two (2) times the charges for services rendered by the Contractor under the contract.** Unless otherwise specifically enumerated herein mutually agreed between the parties, neither party shall be liable to the other for special, indirect or consequential damages, including lost data or records, even if the party has been advised of the possibility of such damages. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

The State may, in addition to other remedies available to it at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor, or may proceed against the performance and payment bond, if any, as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them.

INSURANCE TYPES AND AMOUNTS

Contractor agrees to provide the State of Louisiana with Certificates of adequate insurance indicating coverage of required herein.

Insurance shall be placed with insurers with an A.M. Best's rating of no less than A-:VI. This rating requirement shall be waived for Worker's Compensation coverage only.

Contractor's Insurance: The Contractor shall not commence work under this contract until he has obtained all insurance required herein. Certificates of Insurance, fully executed by officers of the Insurance Company written or countersigned by an authorized Louisiana agency, shall be filed with the State of Louisiana for approval. The Contractor shall not allow any sub-Contractor to commence work on his subcontract until all similar insurance required for the subcontractor has been obtained and approved. If so requested, the Contractor shall also submit copies of insurance policies for inspection and approval of the State of Louisiana before work is commenced. Said policies shall not hereafter be canceled, permitted to expire, or be changed without thirty (30) days notice in advance to the State of Louisiana and consented to by the State of Louisiana in writing and the policies shall so provide.

Compensation Insurance: Before any work is commenced, the Contractor shall take out and maintain during the life of the contract, Workers' Compensation Insurance for all of the Contractor's employees employed at the site of the project. In case any work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in work under the contract at the site of the project is not protected under the Workers' Compensation Statute, the Contractor shall provide for any such employees, and shall further provide or cause any and all subcontractors to provide Employer's Liability Insurance for the protection of such employees not protected by the Workers' Compensation Statute.

Commercial General Liability Insurance: The Contractor shall take out and maintain during the life of the contract such Commercial General Liability Insurance which shall protect him, the State, and any subcontractor during the performance of work covered by the contract from claims or damages for personal injury, including accidental death, as well as for claims for property damages, which may arise from operations under the contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them, or in such a manner as to impose liability on the State. Such insurance shall name the State as additional insured for claims arising from or as the result of the operations of the Contractor or his subcontractors. In the absence of specific regulations, the amount of coverage shall be as follows: Commercial General Liability Insurance, including bodily injury, property damage and contractual liability, with combined single limits of \$1,000,000.

Insurance Covering Special Hazards: Special hazards as determined by the State shall be covered by rider or riders in the Commercial General Liability Insurance Policy or policies herein elsewhere required to be furnished by the Contractor, or by separate policies of insurance in the amounts as defined in any Special Conditions of the contract included therewith.

Licensed and Non-Licensed Motor Vehicles: The Contractor shall take out and Maintain during the life of the contract, Automobile Liability Insurance in an amount not less than combined single limits of \$1,000,000 per occurrence for bodily injury/property damage. Such insurance shall also cover the use of any non-licensed motor vehicles engaged in operations within the terms of the contract on the site of the work to be performed thereunder, unless such coverage is included in insurance elsewhere specified.

Subcontractor's Insurance: The Contractor shall require that any and all subcontractors, which are not protected under the Contractor's own insurance policies, take and maintain insurance of the same nature and in the same amounts as required of the Contractor.

ASSIGNMENT

The Contractor shall not assign any interest in the contract by assignment, transfer or novation without prior written consent of the State. This provision shall not be construed to prohibit the Contractor from assigning his bank, trust company, or other financial institution any money due or to become due from approved contracts without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the State.

RIGHT TO AUDIT

The State Legislative auditor, federal auditors and internal auditors of the Division of Administration, or others so designated by the DOA, shall have the option to audit all accounts directly pertaining to the contract for a period of five (5) years from the date of final payment or as required by applicable State and Federal Law. Records shall be made available during normal working hours for this purpose.

TERMINATION

The State of Louisiana has the right to terminate the contract immediately for any of the following reasons: (a) misrepresentation by the Contractor; (b) Contractor's fraud, collusion, conspiracy or other unlawful means of obtaining any contract with the State of Louisiana; (c) conflict of contract provisions with constitutional or statutory provisions of State or Federal Law; (d) abusive or belligerent conduct by the Contractor towards an employee or agent of the State; (e) Contractor's intentional violation of the Louisiana Procurement Code (La. R.S. 39:1551 et seq.) and its corresponding regulations; or, (f) any listed reason for debarment under La. R.S. 39:1672.

TERMINATION FOR CAUSE

The State may terminate the contract for cause based upon the failure of Contractor to comply with the terms and/or conditions of the contract, or failure to fulfill its performance obligations pursuant to the contract, provided that the State shall give the Contractor written notice specifying the Contractor's failure. If within thirty (30) days after receipt of such notice, the Contractor shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the State may, at its option, place the Contractor in default and the contract shall terminate on the date specified in such notice.

The Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the State to comply with the terms and conditions of the contract, provided that the Contractor shall give the State written notice specifying the State's failure and a reasonable opportunity for the State to cure the defect.

TERMINATION FOR CONVENIENCE

The State of Louisiana may terminate the contract for convenience at any time (1) by giving thirty (30) days written notice to the Contractor of such termination; or (2) by negotiating with the Contractor an effective date. The State shall pay the Contractor for, if applicable: (a) deliverables in progress; (b) the percentage that has been completed satisfactorily; and, (c) for transaction-based services up to the date of termination, to the extent work has been performed satisfactorily.

TERMINATION FOR NON-APPROPRIATION OF FUNDS

The continuation of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the legislature. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act or Title 39 of the Louisiana Revised Statutes of 1950 to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

WAIVER CLAUSE

Waiver of any breach of any term or condition of the contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of the contract shall be held to be waived, modified, or deleted except by the written consent of both parties.

SEVERABILITY

If any term or condition of the contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end, the terms and conditions of the contract are declared severable.

CODE OF ETHICS

The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of products/services called for in the Contract. The Contractor agrees to immediately notify the State if potential violations of the Code of Governmental Ethics arise at any time during the term of the Contract.

APPLICABLE LAW

The contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana. Venue of any action brought with regard to the contract shall be in the Nineteenth Judicial District Court, parish of East Baton Rouge, State of Louisiana.

CONTRACT CONTROVERSIES

Any claim or controversy arising out of the contract shall be resolved by the provisions of Louisiana Revised Statutes 39:1673.

COMPLIANCE WITH CIVIL RIGHTS LAWS

The Contractor agrees to abide by the requirements of the following as applicable: Title VI and Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, Federal Executive Order 11246 as amended, the Federal Rehabilitation Act of 1973 as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, the Fair Housing Act of 1968 as amended, and Contractor agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Contractor agrees not to discriminate in its employment practices, and will render services under the contract without regard to race, color, religion, sex, sexual orientation, national origin, veteran status, political affiliation, disability or age in any matter relating to employment. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of the contract.

CONTRACTOR'S CERTIFICATION OF NO FEDERAL SUSPENSION OR DEBARMENT

By signing this agreement, the Contractor certifies that their company, any subcontractors, or principals are not suspended or debarred by the General Services Administration (GSA) in accordance with the requirements in "Audit Requirements in Subpart F of the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (formerly OMB Circular A-133).

A list of parties who have been suspended or debarred can be viewed via the internet at <https://www.sam.gov>.

Contractor has a continuing obligation to disclose any suspensions or debarment by any government entity, including but not limited to General Services Administration (GSA). Failure to disclose may constitute grounds for suspension and/or termination of the Contract and debarment from future contracts.

SECRETARY OF STATE REGISTRATION REQUIREMENT

In accordance with Louisiana law, all corporations (see La. R.S. 12:262.1) and limited liability companies (see La. R.S. 12:1308.2) must be registered and in good standing with the Louisiana Secretary of State in order to hold a purchase order and/or a contract with the State.

ANTI-KICKBACK CLAUSE

The Contractor hereby agrees to adhere to the mandate dictated by the Copeland "Anti-Kickback" Act which provides that each Contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the completion of work, to give up any part of the compensation to which he is otherwise entitled.

CLEAN AIR ACT

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency (EPA) list of Violating Facilities.

ENERGY POLICY AND CONSERVATION ACT

The Contractor hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

CLEAN WATER ACT

The Contractor hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the Environmental Protection Agency (EPA) List of Violating Facilities.

ANTI-LOBBYING AND DEBARMENT ACT

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act and the Debarment Act.

SIGNATURE AUTHORITY

ATTENTION: Evidence of signature authority shall be provided. Please indicate which of the following apply to the signer of this agreement.

Please circle one:

1. The signer of this Agreement is either a corporate officer who is listed on the most current annual report on file with the Secretary of State or a member of a partnership or partnership in commendam as reflected in the most current partnership records on file with the Secretary of State. **A copy of the annual report or partnership record must be submitted to the Office of State Procurement before contract award.**

2. The signer of this Agreement is a representative of the Contractor authorized to submit this Agreement as evidenced by documents such as, corporate resolution, certification as to corporate principal, etc. **If this applies a copy of the resolution, certification or other supportive documents should be attached to this Agreement.**
3. The Contractor has filed with the Secretary of State an affidavit or resolution or other acknowledged/authentic document indicating that the signer is authorized to submit the Agreement for public contracts. **A copy of the applicable document must be submitted to the Office of State Procurement before contract award.**
4. The signer of the Agreement has been designated by the Contractor as authorized to submit the Agreement on the Contractor's vendor registration on file with the Office of State Procurement.

PLEASE SIGNIFY YOUR AGREEMENT TO COMPLY WITH ALL OF THE REQUIREMENTS STIPULATED HEREIN BY SIGNING BELOW:

I, Signature on File, representing Modern Technologies For Education, Inc.
 (Authorized Representative Signature) (Name of Company)

HEREBY AGREE TO THE REQUIREMENTS STIPULATED HEREIN.

Please print or type the name of the signing authority, company name, phone number, fax number, and email address below:

SIGNING AUTHORITY: Jimmy Morrison
 COMPANY NAME: Modern Technologies for Education, Inc.
 PHONE NUMBER: 318-793-8438
 FAX NUMBER: 318-793-8656
 EMAIL ADDRESS: mojim@aol.com

Minimum Discount(s):

CATEGORY I: NAME	<u>Workstations</u>	DISCOUNT	<u>10</u>	%
CATEGORY II: NAME	<u>Notebooks</u>	DISCOUNT	<u>10</u>	%
CATEGORY III: NAME	<u>Monitors</u>	DISCOUNT	<u>10</u>	%
CATEGORY IV: NAME	<u>Upgrades</u>	DISCOUNT	<u>10</u>	%
CATEGORY V: NAME	<u>Components</u>	DISCOUNT	<u>10</u>	%

OR

ALL ITEMS: 10 %

Retail price, minimum discount percent and the actual discounted price offered for each individual item are listed on Attachment B.